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Date of Facsimile: April 2, 2003

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Rhonda Dunn

Rhonda Dunn

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

**In re Application of:** Makarewicz, et al.

**Docket No.:** IMET0066

**Serial No. :** 09/954,856

**Art Unit:** 3736

**Filed:** September 17, 2001

**Examiner:** Unknown

**Title:** METHOD AND APPARATUS FOR MINIMIZING SPECTRAL INTERFERENCE  
DUE TO WITHIN AND BETWEEN SAMPLE VARIATIONS DURING IN-SITU  
SPECITRAL SAMPLING OF TISSUE

April 2, 2003

Assistant Commissioner for Patents

Washington, DC 20231

**TRANSMITTAL**

Dear Sir:

Enclosed for the above-referenced patent are the following:

1. Request for Corrected Filing Receipt;
2. Copy of Original Filing Receipt;
3. Copy of Declaration filed with application on 09/17/2001

We are unaware of any fees required for this request, however, the Commissioner is authorized to charge any such fees, or credit any overpayments, to Deposit Account No. 07-1445 (Order No. IMET0066).

Respectfully submitted,



Michael A. Glenn  
Reg. No. 30,176

Customer No. 22862

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

**In re Application of:** Makarewicz, et al.

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April 2, 2003

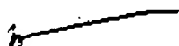
**REQUEST FOR A CORRECTED FILING RECEIPT**

Assistant Commissioner for Patents  
Office of Initial Patent Examination  
Customer Service Center  
Washington, DC 20231

Dear Sir:

Applicant, by his attorney, requests correction of the Official Filing Receipt for the above-referenced patent application. A domestic priority number was omitted from the Filing Receipt, "Under the heading Domestic Priority data as claimed by applicant". Please add the relation to U.S. Serial Number 09/631,440, 08/02/2000 as shown on the Declaration as filed. A copy of the Filing Receipt is also enclosed.

Respectfully submitted,



Michael Glenn  
Reg. No. 30,176

Customer No. 22862



## UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS  
UNITED STATES PATENT AND TRADEMARK OFFICE  
WASHINGTON, D.C. 20231  
www.uspto.gov

APPLICATION NUMBER	FILING DATE	GRP ART UNIT	FIL FEE REC'D	ATTY. DOCKET NO	DRAWINGS	TOT CLAIMS	IND CLAIMS
09/954,856	09/17/2001	3736	672	IMET0086	1	48	3

CONFIRMATION NO. 8747

## UPDATED FILING RECEIPT

\*OC00000007543620\*

22862  
GLENN PATENT GROUP  
3475 EDISON WAY  
SUITE L  
MENLO PARK, CA 94025

Date Mailed: 02/27/2002

Receipt is acknowledged of this nonprovisional Patent Application. It will be considered in its order and you will be notified as to the results of the examination. Be sure to provide the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION when inquiring about this application. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. If an error is noted on this Filing Receipt, please write to the Office of Initial Patent Examination's Customer Service Center. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections (if appropriate).

## Applicant(s)

Marcy Makarewicz, Chandler, AZ;  
Mutua Mattu, Gilbert, AZ;  
Thomas B. Blank, Chandler, AZ;  
George Acosta, Phoenix, AZ;  
Edward Handy, Chandler, AZ;  
William Hay, Gilbert, AZ;  
Timothy Stippick, Tempe, AZ;  
Benjamin Richie, Scottsdale, AZ;

## Domestic Priority data as claimed by applicant

THIS APPLICATION IS A CIP OF 09/563,782 05/02/2000  
WHICH CLAIMS BENEFIT OF 60/235,424 09/26/2000

→ AND IS RELATED TO 09/631,440 08/03/2000

## Foreign Applications

If Required, Foreign Filing License Granted 11/14/2001

Projected Publication Date: 06/06/2002

Non-Publication Request: No

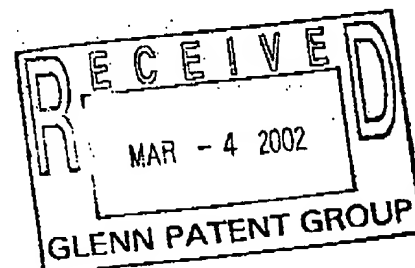
Early Publication Request: No

\*\* SMALL ENTITY \*\*

DOCKETED

By:

Received from < 650 474 8401 > at 4/3/03 7:52:35 PM [Eastern Standard Time]



**Title**

Method and apparatus for minimizing spectral interference due to within and between sample variations during in-situ spectral sampling of tissue

**Preliminary Class**

600

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**LICENSE FOR FOREIGN FILING UNDER  
Title 35, United States Code, Section 184  
Title 37, Code of Federal Regulations, 5.11 & 5.15**

**GRANTED**

The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where the conditions for issuance of a license have been met, regardless of whether or not a license may be required as set forth in 37 CFR 5.15. The scope and limitations of this license are set forth in 37 CFR 5.15(a) unless an earlier license has been issued under 37 CFR 5.15(b). The license is subject to revocation upon written notification. The date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

This license is to be retained by the licensee and may be used at any time on or after the effective date thereof unless it is revoked. This license is automatically transferred to any related applications(s) filed under 37 CFR 1.53(d). This license is not retroactive.

The grant of a license does not in any way lessen the responsibility of a licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the national security or the export of technical data. Licensees should apprise themselves of current regulations especially with respect to certain countries, of other agencies, particularly the Office of Defense Trade Controls, Department of State (with respect to Arms, Munitions and Implements of War (22 CFR 121-128)); the Office of Export Administration, Department of Commerce (15 CFR 370.10 (j)); the Office of Foreign Assets Control, Department of Treasury (31 CFR Parts 500+) and the Department of Energy.

**NOT GRANTED**

No license under 35 U.S.C. 184 has been granted at this time, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" DOES NOT appear on this form. Applicant may still petition for a license under 37 CFR 5.12, if a license is desired before the expiration of 6 months from the filing date of the application. If 6 months has lapsed from the filing date of this application and the licensee has not received any indication of a secrecy order under 35 U.S.C. 181, the licensee may foreign file the application pursuant to 37 CFR 5.15(b).

Attorney Docket No. IMET0066

**DECLARATION FOR PATENT APPLICATION**

As a below named inventor, I hereby declare that:

My residence, post office address, and citizenship are as stated below next to my name;

I believe I am the original, first, and sole inventor (if only one name is listed below) or an original, first, and joint inventor (if plural names are listed below) of the subject matter which is claimed and for which a patent is sought on the invention entitled:

**METHOD AND APPARATUS FOR MINIMIZING SPECTRAL  
INTERFERENCE DUE TO WITHIN AND BETWEEN SAMPLE VARIATIONS  
DURING IN-SITU SPECTRAL SAMPLING OF TISSUE**

the specification of which (check one) ☐ is attached hereto, or ☒ was filed on 9/17/01  
as Application Serial No. 09/954,856 and was amended on \_\_\_\_\_ (if applicable).

I hereby state that I have reviewed and understand the contents of the above-identified specification, including the claims, as amended by any amendment referred to above.

I acknowledge the duty to disclose information which is material to the examination of this application in accordance with Title 37, Code of Federal Regulations, Section 1.56(a).

I hereby claim foreign priority benefits under Title 35, United States Code, Section 119 of any foreign application(s) for patent or inventor's certificate listed below and have also identified below any foreign application for patent or inventor's certificate having a filing date before that of the application on which priority is claimed:

Prior Foreign Application(s)	Priority Claimed
	Yes No
_____ Number Country Day/Month/Year Filed	_____ _____
_____ Number Country Day/Month/Year Filed	_____ _____

**POWER OF ATTORNEY:** As a named inventor, I hereby appoint the following attorney(s) and/or agent(s) to prosecute this application and transact all business in the Patent and Trademark Office connected therewith:

MICHAEL A. GLENN, Reg. No. 30,176  
DONALD M. HENDRICKS, Reg. No. 40,355  
KIRK WONG, Reg. No. 43,284  
CHRISTOPHER PEIL, Reg. No. 45,005

**SEND CORRESPONDENCE TO:**

**GLENN PATENT GROUP, 3475 Edison Way, Ste. L, Menlo Park, CA 94025**

Attorney Docket No. IMET0066

I hereby claim the benefit under Title 35, United States code, Section 120 of any United States application(s) listed below and, insofar as the subject matter of each of the claims of this application is not disclosed in the prior United States application in the manner provided by the first paragraph of Title 35, United States Code, Section 112, I acknowledge the duty to disclose material information as defined in Title 37, Code of Federal Regulations, Section 1.56(a) which occurred between the filing date of the prior application and the national or PCT international filing date of this application:

<u>60/235,424</u>	<u>9/26/00</u>	<u>Provisional - Pending</u>
Application Ser. No.	Filing Date	Status: Patented, Pending, Abandoned
<u>09/563,782</u>	<u>5/2/00</u>	<u>Pending</u>
Application Ser. No.	Filing Date	Status: Patented, Pending, Abandoned
<u>09/631,440</u>	<u>8/2/00</u>	<u>Pending</u>
Application Ser. No.	Filing Date	Status: Patented, Pending, Abandoned

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

Full name of sole or first inventor: MARCY MAKAREWICZ

Inventor's signature [Signature] 5 Oct 01  
Date

Residence 1375 N. Santa Anna Court, Chandler, AZ 85224

Post Office Address Same

Citizenship United States of America

Full name of second joint inventor: MUTUA MATTU

Inventor's signature [Signature] 10/5/01  
Date

Residence 119 W. Gail Drive, Gilbert, Arizona 85233

Post Office Address Same

Citizenship Kenya

Full name of third joint inventor: THOMAS B. BLANK

Inventor's signature [Signature] 10-5-2001  
Date


Residence 2922 E. Tulsa, Chandler, AZ 85225

Post Office Address Same

Citizenship United States of America

Attorney Docket No. IMET0066

Full name of fourth joint inventor: GEORGE ACOSTA

Inventor's signature 

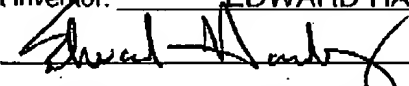
10/08/2001  
Date

Residence 1639 West Wildwood Drive, Phoenix, Arizona 85045

Post Office Address Same

Citizenship United States of America

Full name of fifth joint inventor: EDWARD HANDY

Inventor's signature 

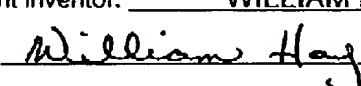
10/5/01  
Date

Residence 1401 East Gail Drive, Chandler, Arizona 85225

Post Office Address Same

Citizenship United States of America

Full name of sixth joint inventor: WILLIAM HAY

Inventor's signature 

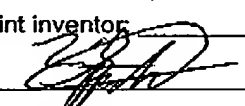
10/5/01  
Date

Residence 1115 N. Poplar Street, Gilbert, Arizona 85233-2715

Post Office Address Same

Citizenship United States of America

Full name of seventh joint inventor: TIMOTHY STIPPICK

Inventor's signature 

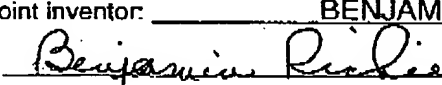
10/5/01  
Date

Residence 633 W. Southern Avenue, Unit 1104, Tempe, Arizona 85282

Post Office Address Same

Citizenship United States of America

Full name of eighth joint inventor: BENJAMIN RICHIE

Inventor's signature 

10/05/01  
Date

Residence 8315 East Lewis Avenue, Scottsdale, Arizona 85257

Post Office Address Same

Citizenship United States of America



## UNITED STATES PATENT AND TRADEMARK OFFICE

FILE COPY

COMMISSIONER FOR PATENTS  
UNITED STATES PATENT AND TRADEMARK OFFICE  
WASHINGTON, DC 20231  
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APPLICATION NUMBER	FILING DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
09/954,856	09/17/2001	Marcy Makarewicz	IMET0066

CONFIRMATION NO. 8747

22862  
GLENN PATENT GROUP  
3475 EDISON WAY, SUITE L  
MENLO PARK, CA 94025

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\*OC000000009782179\*

TECHNOLOGY CENTER R3700

Date Mailed: 04/04/2003

## RESPONSE TO REQUEST FOR CORRECTED FILING RECEIPT

## Domestic Continuity and Foreign Priority

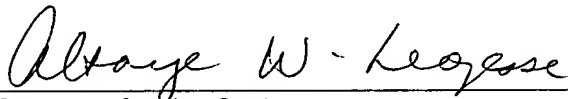
In response to your request for a corrected Filing Receipt, the Office is unable to comply with the request because:

- ☐ The priority or continuity claim has not been entered because it was not filed during the required time period. Applicant may wish to consider filing a petition to accept an unintentionally delayed claim for priority. See 37 CFR 1.55 or 1.78.
- ☒ Continuity claimed under 35 U.S.C. § 120 cannot be added to the Filing Receipt without the applicant supplying the relationship (continuation, divisional, or continuation-in-part) in an Application Data Sheet or amendment to the first page of the specification. 09/631,440 filed 08/02/2000
- ☐ A claim for priority cannot be made based on an application filed after the application making the claim.
- ☐ Domestic benefit and foreign priority claims will not be captured in a provisional application. A provisional application is not entitled to a right of priority or to the benefit of an earlier filing date of any other application. See 35 U.S.C. § 111(b)(7) and 37 CFR 1.53(c)(4).
- ☐ A domestic continuity claim cannot be made to a foreign application and the filing receipt will only list the foreign country, application number, and filing date.
- ☐ Foreign priority will appear on the Filing Receipt in the following order:  
**Country, Application number, Filing date.**
- ☐ This application is the result of a conversion from a provisional application. Priority based on such application cannot be made since it no longer exists as a provisional application.
- ☐ The application(s) to which priority is claimed were filed over a year prior to the filing date of this application. Therefore, the referenced application(s) cannot be claimed as domestic or foreign priority.



☐ To change the benefit claim of a U.S. prior-filed application, applicant must amend the first sentence of the specification (if the benefit claim is referenced in the specification), or provide a supplemental application data sheet (ADS) (if the benefit claim was submitted in an ADS), with the desired benefit claim. Note that once a benefit claim is deleted, applicant will not be able to claim such prior-filed application again, if the above-identified application was filed on or after November 29, 2000.

☐ To change a foreign priority claim, applicant must submit a supplemental oath or declaration (if the priority claim is referenced in the oath or declaration), or a supplemental application data sheet (ADS) (if the priority claim was submitted in an ADS), with the desired priority claim. If a supplemental ADS is submitted, any deletions should be shown with strikeouts. Note that once a priority claim is deleted, applicant will not be able to claim such foreign application again, if the above-identified application was filed on or after November 29, 2000.



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